

# Congress of the United States

Washington, DC 20515

January 5, 2006

The President  
The White House  
Washington, DC 20500

Dear Mr. President:

We write to you regarding the National Security Agency's use of warrantless surveillance involving people in the United States. While we believe it is critical that communications with Al Qaeda representatives be scrutinized, it is also imperative that it be done in a manner that respects the law and the privacy rights of individuals in this country, and as has been done by prior Administrations.

As you know, since this program was first disclosed by *The New York Times* on December 16, 2005,<sup>1</sup> it has caused a firestorm of controversy. Among other things, concerns have been raised that not only is the program constitutionally problematic;<sup>2</sup> but also that it is inconsistent with the Foreign Intelligence Surveillance Act ("FISA") and not authorized by any subsequently passed law (including the September 18, 2001 Authorization for Use of Military Force);<sup>3</sup> it included within its sweep calls solely within the United States;<sup>4</sup> the intelligence information was widely disseminated without adequate controls;<sup>5</sup> and that it involved tapping into telecommunication data and voice networks, thereby intercepting a large volume of telephone and Internet communications.<sup>6</sup> Concerns about the program were not only raised by Members of the Intelligence Committees<sup>7</sup> and Members of the FISA Court (one of whom

---

<sup>1</sup>James Risen & Eric Lichtblau, *Bush Lets U.S. Spy on Callers Without Courts*, N.Y. TIMES, Dec. 16, 2005, at 1.

<sup>2</sup>Adam Liptak, *Domestic Surveillance: The Legal Precedent*, N.Y. TIMES, Dec. 23, 2005, at 21.

<sup>3</sup>*Id.*

<sup>4</sup>James Risen & Eric Lichtblau, *Spying Program Snared U.S. Calls*, N.Y. TIMES, Dec. 21, 2005, at 1.

<sup>5</sup>Walter Pincus, *NSA Gave Other U.S. Agencies Information from Surveillance*, WASH. POST, Jan. 1, 2006, at A8.

<sup>6</sup>James Risen & Eric Lichtblau, *Spy Agency Mined Vast Data Trove, Officials Report*, N.Y. TIMES, Dec. 23, 2005, at 1.

<sup>7</sup>Dafna Linzer, *Secret Surveillance May Have Occurred Before Authorization*, WASH. POST, Jan. 4, 2006, at A3; Charles Babington & Dafna Linzer, *Senator Sounded Alarm in '03*, WASH. POST, Dec. 20, 2005, at A10.

resigned in protest),<sup>8</sup> but by then-Deputy Attorney General Comey and, reportedly, by then-Attorney General Ashcroft.<sup>9</sup>

Perhaps the most significant concern many of us have is that such a program could be utilized with the Executive Branch acting in the role of attorney, judge, and jury in deciding whether or not the surveillance was justified or appropriate. This is particularly perplexing given the ease with which your and other Administrations have been able to obtain FISA warrants in the past, and the fact that such warrants can even be obtained on a retroactive basis.

Given the controversy and myriad legal concerns raised by the surveillance program, we would ask that you forward to us proposed statutory language authorizing the program so that the Members can consider the same as part of our review of those provisions of the USA PATRIOT Act scheduled to sunset on February 3, 2006.

In addition, so that we may better understand the nature of the program, we would ask that you forward to us the following:

- Any and all legal opinions and memorandum concerning the lawfulness of the program
- Any and all orders authorizing and reauthorizing the program
- Any and all records and information indicating the number of U.S. persons for whom such surveillance was authorized
- Any and all records and information indicating the number of U.S. persons for whom communication to or from them were intercepted
- Any and all records and information indicating the number of intercepted communications occurring completely within the U.S.
- Any and all records identifying any members of the U.S. press, other U.S. media or Members of Congress for whom communications to or from them were intercepted

---

<sup>8</sup>Carol D. Leonnig & Dafna Linzer, *Judges on Surveillance Court to be Briefed on Spy Program*, WASH. POST, Dec. 22, 2005, at A1.

<sup>9</sup>James Risen & Eric Lichtblau, *Justice Deputy Resisted Parts Of Spy Program*, N.Y. TIMES, Jan. 1, 2006, at 1.

The President  
Page Three  
January 5, 2006

- Any and all records and information indicating how the information concerning U.S. persons was stored, shared among various agencies and departments, and whether, when and how such information is to be destroyed.

To the extent any of the above includes classified information, we would be willing to discuss a means by which certain information can be redacted.

Thank you for your time and attention to this matter. Please provide any response to the Judiciary Committee, Democratic Office, 2142 Rayburn House Office Building, Washington, D.C. 20515, tel. 202-225-6504.

Sincerely,

John Conyers Jr.  
Bly Scott  
Ellen Taubman

Jim McDermott

John W. Olver

Joe Anello

Stacy Doggett

Zoe Lofgren  
Gerald Nadler  
Phil Jackson Lee

Wendy Liebman

Rahat Wafa

Jan Schakowsky  
Dennis J. Kucinich

Betty McColman

Tammy Baldini

Christa Schaller

Tom Wall

Debbie Wasserman Schultz

Paul Saul

Margaret Winding M.C.

Howard S. Berman

Linda J. Sanchez

David Price

Gary L. Ackerman

Martin Olav Sabo

John F. Tierney

Sam Tan